IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 191 OF 2007**

Shivram Janu Bhopi ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. S.R. Chitnis, Sr. Advocate for the applicant.

Ms.R.M. Gadhvi, APP for the State.

**CORAM : J.H. BHATIA, J.**

**DATE : 5TH FEBRUARY, 2007.**

P.C.

. The applicant seeks to be released on bail in Crime No. I-155/2006, registered at New Panvel Police Station for the offence punishable under Section 302 Indian Penal code. Heard Mr. Chitnis, learned Senior Counsel for the applicant and Ms. Gadhvi, learned APP for the State. Perused relevant police papers.

2. Prosecution case,in brief, is that the present applicant Shivram and Jayram are sons of Janu Bhopi from his first wife. Said Janu had married Sangita, sister of first informant Madhukar Valku Barshi, about 8 years prior to the incident of this case. Said Janu had 5 years old son Pravin from second wife. He was residing

with his second wife. The present applicant and his brother Jayram were residing separately. On 7/11/2006 dead bodies of Sangita and her son pravin were found in highly decomposed conditions in their house at Harigram. Madhukar got telephonic message of the said incident. He went to the house of his sister and after finding the dead bodies he lodged report with the police. At that time whereabouts of Janu were not known to him. Post mortem report revealed that Sangita and her son Pravin were murdered by strangulation with the help of rope. Their funeral was performed on the next day. On the same day, dead body of Janu in the similar condition was found at a distance of about 2 K.M.from his house. It was revealed that he was also strangulated with the rope. His body was also in highly decomposed condition. Said Janu had disposed off some of his property for amount of Rs. 2.5 lacs and he had also given some amount to his sons Jayram and Shivram. But Jayram was repeatedly demanding more amount. According to the prosecution, the present applicant Shivram and his brother were not happy due to the second marriage of their father and further there was dispute about the property and due to this motive they committed murder of their father, second wife and minor son of deceased

Janu.

3. Jayram was arrested on 8/11/2006, while present applicant Shivram was arrested on 25/11/2006. It is reported that on 30th December, 2006 they were referred for Narco Test. The test was conducted and the report is not yet received. To what extent the result of Narco Test or the statement made by the accused during the same is admissible in evidence in entirely different issues and need not be taken into consideration at this stage. If the statements or information given by them during the Narco Test provides some clue, same can be certainly used for further investigation and for collection of evidence. Investigation is not yet completed, charge-sheet is also not filed. In these circumstances, I find that taking into consideration triple murder case and the circumstances it will not be in the interest of justice to grant bail at this stage.

4. Mr. Chitnis, learned Sr. Counsel makes a statement that during the relevant period when these three murders were allegedly committed, the present applicant was on duty with ONGC at Uran and therefore, it was not possible for him to be present at the scene

of offence at the time of commission of the same. He also contends that in view of the authority of Supreme Court in **Ram Lal Narang V. State (Delhi Admn) AIR 1979 S.C. 1791** when the plea of alibi is taken by the accused, the investigating officer is bound to investigate from that angle to find out whether the accused was really not present at the scene of offence. In fact, investigation has to be carried out from that angle by taking into consideration different pros and cons and to find out the truth and to bring the guilt to book. The purpose is also to rule out any false defence which may be taken later on. Therefore, if the accused have taken the plea of alibi, it will be desirable for the investigating officer to thoroughly investigate the case from that angle also before filing charge-sheet.

5. In view of the above circumstances, the application stands rejected. The investigating officer shall carry out investigation thoroughly including plea of alibi taken by the accused. The applicant shall be at liberty to file fresh application before the Sessions Court, if charge-sheet is filed within 90 days and if the charge-sheet is not so filed under section 167(2) Cr.P.C. The investigating officer shall also make every

endeavour to collect the Narco Test report before filing charge-sheet.

**(J.H. BHATIA, J.)**